

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM ALFRED DEGRANDCHAMP,

Defendant-Appellant.

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UNPUBLISHED

January 21, 2003

No. 235550

Oakland Circuit Court

LC No. 01-176963-FH

Before: Cooper, P.J., and Bandstra and Talbot, JJ.

PER CURIAM.

Defendant appeals as of right his conviction of prisoner in possession of contraband, MCL 801.263(2), entered after a jury trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A deputy detected a strong odor of marijuana emanating from defendant's jail cell. Defendant denied any knowledge of the source of the odor. A subsequent search of the cell revealed two marijuana cigarettes hidden under defendant's bunk. Joseph Verfaillie, defendant's cellmate, claimed that defendant owned the marijuana and denied any knowledge of the cigarettes. When questioned, defendant admitted that the cigarettes belonged to him. Defendant was given his *Miranda*<sup>1</sup> rights, and after waiving his rights made a written statement in which he admitted ownership of the cigarettes.

Deputy Overall denied that he forced or threatened defendant into making a statement. He further stated that defendant did not appear to be under the influence of any substance when he made the statement. At trial, defendant testified that Verfaillie owned the marijuana. He stated that he told the deputies the marijuana belonged to him as a favor to Verfaillie. The jury found the defendant guilty of the charged offense.

On appeal, defendant argues that because he was interrogated in an inherently coercive jail atmosphere prior to being advised of his *Miranda* rights, his inculpatory oral and written statements should not have been admitted into evidence. We disagree. Defendant did not move

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<sup>1</sup> *Miranda v Arizona*, 384 US 436; 86 S Ct 1602; 16 L Ed 2d 694 (1966).

to suppress his statements or object to their introduction at trial; thus, reversal is warranted only on the basis of plain error. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

Whether a person is in custody for purposes of *Miranda* warnings before interrogation, is a mixed question of law and fact which this Court must answer independently after a de novo review of the record. *People v Mendez*, 225 Mich App 381, 382; 571 NW2d 528 (1997). To determine whether a person was in custody at the time of interrogation, we look at the totality of the circumstances to ascertain whether the defendant reasonably believed that he was not free to leave. *Id.* at 382-383. Similarly, the voluntariness of a confession is determined by considering the totality of the circumstances, including the duration of the detention and questioning, the defendant's age, intelligence and experience, the defendant's physical and mental state, and whether the defendant was threatened. *People v Wells*, 238 Mich App 383, 386-387; 605 NW2d 374 (1999).

In the case at bar, defendant was in jail when questioned regarding ownership of the marijuana cigarettes and was clearly in custody. However, regardless of whether defendant was given his *Miranda* rights before the oral statement, the record shows that defendant was given these rights before making a written statement admitting ownership of the marijuana. Defendant does not maintain that he was incapacitated when he made the written statement or that he was threatened. He contends only that the coercive atmosphere of the jail setting rendered the statement involuntary. This assertion is without merit in light of *People v Herndon*, 246 Mich App 371, 395-397; 633 NW2d 376 (2001). Accordingly, we find no error.

Affirmed.

/s/ Jessica R. Cooper  
/s/ Richard A. Bandstra  
/s/ Michael J. Talbot